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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/588,503 | 08/04/2006 | Hajime Ishii | H&C-5244 | 7213 |
| <div>7590 12/09/2008</div> <div>Mattingly Stanger & Malur Suite 370 1800 Diagonal Road Alexandria, VA 22314</div> | | | | |
| EXAMINER | | | | |
| BLACK, MELISSA ANN | | | | |
| ART UNIT | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/588,503

Applicant(s)

ISHII ET AL.

Examiner

MELISSA A. BLACK

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to Amendments and Remarks filed March 3, 2008, Claims 1-5 are pending in the application and rejected as set forth below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11100864 to Tanaka Hisao in view of US Pat # 6,502,896 to Nakata et al.

Re Claim 1, Hisao discloses a construction machine comprised of an automotive vehicular lower structure, and an upper revolving structure rotatably mounted on said vehicular lower structure and having a cab built on a frame and covering lower side of said cab with a side cover; said cab being constituted by a hollow cab box having five vertically extending pillars including a left front pillar (25), a right front pillar (not shown), a left center pillar (27), a left rear pillar (26) and a right rear pillar (not shown), and five side sections between said pillars including a front side section, a left front side section, a left rear side section, right side section and a rear side section, and a door openably or closeably fitted between said left front pillar and said left center pillar (See Figure 3), characterized in that: said door is a folding type door comprised of a first door panel (32, 34) pivotally (36) supported on said left center pillar (27) of said cab box by use of door hinges and a second door panel foldably connected to said first door panel by use of intermediary hinges; said folding type door being located substantially in the same vertical plane as said side cover (See Figure 1); a holder member (40) for retaining said folding type door in an open door position when said folding type door is opened; and said

folding type door being provided with a catch member (41) to be attachably or detachably engaged with said holder member (40) on said left rear side section of said cab box when said folding type door is in an open door position. Re Claim 2, Hisao discloses the construction machine, wherein said left rear side section of said cab box is formed in a convex arcuate shape (See Figure 1) from said left center pillar (27) to said left rear pillar (26), and said folding type door is folded back along said left rear side section of said cab box when opened (See Figure 1). Re Claim 5, Hisao discloses the left rear pillar of said cab is located at a position behind an operator's seat within said cab (See Figure 1).

Re Claims 1 and 4, as discussed above Hisao discloses one holder and one catch on the second door panel, but fails to disclose the use of a catch and holder for use on the first door panel.

Nakata et al discloses the use of a catch and holder (36 and 41) on the first door panel (32).

It would have been obvious to one with ordinary skill in the art to use the catch and holder on the first door panel as taught by Nakata et al on the device of Nisao in order to prevent the first folding door panels from rattling off the left rear side section of the cab box and make the panel follow along with the curve of the side section. Furthermore, it is a mere duplication of parts and involves only routine skill in the art.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11100864 to Tanaka Hisao as modified by US Pat # 6,502,896 to Nakata et al in view of US Pat # 6,669,272 to Ayabe et al.

Hisao as modified fails to disclose the use of a stretchable protective cover to cover the gap between the two door panels of the folding door type.

Ayabe et al discloses the use of a stretchable protective cover to cover the gap between the two door panels of the folding door type (27, Figure 10(a)).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the cover member as taught by Ayabe et al on the device of Hisao in order to protect the inside of the cab from the elements, and prevent objects from being pinched in-between the panels of the folding type door.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11100864 to Tanaka Hisao as modified by US Pat # 6,502,896 to Nakata et al in view of US Pat # 3,692,083 to Swanson et al further in view of US Pat # 4,035,016 to Ricca.

Tanaka Hisao fails to disclose the use of a door cushion member provided on said left rear side section on said cab which cushions said folding type door when said folding type door is retained in an open door position, wherein said door cushion member comprises a bracket having a resilient cushion member attached thereto.

Swanson et al teaches the use of a cushion member on the wall of the cab used when the door is in the open position (See Figure 4).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to use the cushion member as taught by Swanson et al on the device of Hisao in order to prevent the door from damaging the wall.

Swanson et al too fails to disclose that the cushion member has a bracket and a resilient cushion member attached thereto.

Ricca teaches a cushion member with a bracket (32) and a resilient cushion (34).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to have the resilient member and bracket as taught by Ricca on the device in order to have more flexibility in the cushion member.

Response to Arguments

Applicant's arguments filed 15 October 2008 have been fully considered but they are not persuasive. Hisao discloses a two paneled door with one latching member on the second panel, Nakata et al teach a one paneled door with a latching member, in combination there would be a latching member on both panels of the door, furthermore it is a mere duplication of parts. If its known to have a latching member on one of the panels of the two paneled door, then it would be obvious to add another latching member, for multiple reasons, for example, if one latch breaks during operation there is still another latch to hold the door open.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pat # 6,471,260 discloses a simple spring catch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/

Primary Examiner, Art Unit 3612

/M. A. B./

Examiner, Art Unit 3612